IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE ELEVENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 4859 of 2005

Between:

Rabindra Panda, s/o Bhaskar Panda,
Nehru Nagar-8, Berhampur, Ganjam District, Orissa

..... PETITIONER

AND

1 Deputy Transport Commissioner, Srikakulam, Srikakulam District.
2 Motor vehicle Inspector, Palasa, Srikakulam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order, direction more particularly writ in the nature of Mandamus under Article 226 of Constitution of India, declaring the action of the 2nd respondent herein in issuing the show cause notice dt.20-01-2005 contrary to the orders of this Hon'ble Court dt.22-12-2004 passed in W.P.No.24001 of 2004, by directing the "Whether the petitioner has violated any of the provisions of the motor vehicles Act by plying the vehicle on the roads of state of Andhra Pradesh has to be decided by the competent authority" without deciding by issuing impugned proceeding is illegal, improper, arbitrary, unjust, unsustainable and in violation of the second proviso of sub clause (1) and proviso (7) of Section 88 of M.V.Act and consequently set aside the show cause notice dt.20-01-2005 of the 2nd respondent.

Counsel for the Petitioner: SMT.A.PADMA

Counsel for the Respondents: GP FOR TRANSPORT

The Court, at the admission stage, made the following:

THE HON'BLE MR JUSTICE K.C. BHANU

–

WRIT PETITION NO : 4859 of 2005

–

–

ORDER:

Challenging the show cause notice dated 20-01-2005 issued by the 1st respondent-Deputy Transport Commissioner, Srikakulam, contrary to the orders of this Court dated
22-12-2004 passed in W.P.No.24001 of 2004, the present writ petition has been filed.

2. The learned counsel for the petitioner vehemently contended that under the provisions of the Motor Vehicles Act, 1988 (for brevity 'the Act, 1988'), the petitioner paid the necessary tax to the Orissa Government after obtaining permit and therefore, the petitioner has no need to pay any further tax.

3. The learned Government Pleader for Transport opposed the same.

4. According to the petitioner's case, a show cause notice was issued by the 1st respondent to the petitioner on
20-1-2005 to show cause and explain as to why tax of Rs.48,350/- should not be collected from him for the QE
31-12-2004 and to give explanation within 7 days from the date of receipt of the notice.

5. Taking into consideration, the contention raised by the learned counsel for the petitioner and also in the writ petition, without entering into the merits of the case, I feel it consider to give a direction to the 1st respondent to take appropriate decision on considering the contentions raised by the petitioner in

accordance with the provisions of the Act, 1988.

6 . Accordingly, the writ petition is disposed of directing the 1st respondent-Deputy Transport Commissioner to take appropriate decision as per the provisions of the Act, 1988 duly considering the representation that may be given by the petitioner within a period of two weeks from the date of receipt of explanation that may be given by the petitioner, if no final order has been passed in pursuance of the show cause notice, dated 20-01-2005. No costs.

_____

March 11, 2005

Note:

Issue C.C. in two days.

B/o.

KVR

To

1 The Deputy Transport Commissioner, Srikakulam,
Srikakulam District.
2 The Motor vehicle Inspector, Palasa, Srikakulam District.

3. Two C.Cs to GP for Transport, High Court of AP Buildings,
Hyderabad.

4 2 C.D copies.